

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Criminal No. 2:11-cr-00002-9
)	Judge Trauger
HOWARD BELL)	
)	
Defendant.)	
)	

ORDER

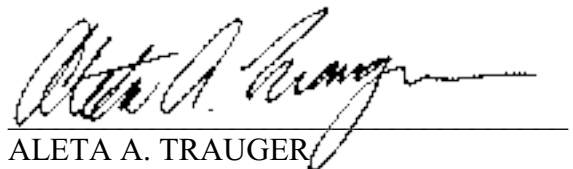
Pursuant to this court's Order entered November 17, 2015 (Docket No. 1955), the parties have filed supplemental briefing on the defendant's entitlement to a minus two drug reduction under Amendment 782. For the reasons expressed in the referenced Order, the court has already found that this defendant was sentenced under a drug offense guideline, rather than as a career offender. The two level reduction would result in a total offense level of 27 which, when coupled with a criminal history category of VI, results in a guideline range of 130-162 months. However, this analysis provides the defendant no relief at this time. The Presentence Report found the defendant's offense level to be 32, before the reduction for acceptance of responsibility, under both the drug guideline and the career offender guideline. The reduction of the offense level pursuant to Amendment 782 results in the application of the career offender level because it then is higher than the drug quantity offense level. Thus, the defendant is back to a total offense level of 29, after the reduction for acceptance of responsibility, and he sees no benefit from the offense level reduction for drug quantity.

The defendant argues extensively in his brief filed February 1, 2016 that his Illinois aggravated battery conviction does not qualify as a “crime of violence” under the career offender guideline, based upon recent Supreme Court caselaw. Should he properly seek and be granted relief by a finding that, indeed, he is not a career offender, he may again seek relief from this court under Amendment 782. However, the pending motion is not the proper vehicle for seeking that relief.

For the reasons expressed herein, the defendant’s motion is DENIED.

It is so **ORDERED**.

Enter this 4th day of April 2016.



ALETA A. TRAUGER
United States District Judge